IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5982 OF 2004

Santoshkumar S.Jadhav & Ors. .. Petitioners.
Vs.
Somani Evergreen Knits Ltd.
& Ors. .. Respondents

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Shri S.M.Dharap for the petitioners.

Shri A.V.Bukhari i/b M/s.V.Deshpande & Co. for the respondent No.1.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 1ST DECEMBER, 2004.

P.C.

1. Heard the learned advocates for the parties.

2. The petitioners challenge the orders passed by the Labour Court and the Industrial Court in the complaint and the revision application, respectively, in relation to the declaration that the employees of the respondent/management had been on the illegal strike on 19th December, 2002. The finding about the strike being illegal has been arrived at by the Courts below on the assessment of the evidence on record, and the same is a finding of fact. It was sought to be contended on behalf of the petitioners that the finding is perverse and therefore warrants

interference in writ jurisdiction. Though it was sought to be contended that the petitioners had immediately reacted to the illegal action on the part of the management in denying the entry to the workers to the factory premises by filing the application that the workers were not on strike, the learned advocate for the petitioners could not point out any evidence in that regard on record and has not been able to point out even a statement to that effect on behalf of the Union before the Labour Court. On the contrary, a categorical statement of the petitioners' representative, who was examined before the Labour Court, was to the effect that :-

> "It is true that on 19.12.2002 I came to know before Assistant Commissioner of Labour about the complaint of the management alleging that its employees had commenced illegal strike from 19.12.2002. I did not lodge any written complaint before Assistant Commissioner of Labour stating that employees the allegation of the management that employees have commenced illegal strike is false and that employees commenced illegal strike is false and that employees are ready and willing to report for work and the management be directed

to allow them to resume on duties."

Undisputedly, it was the defence of the petitioners that they had not gone on strike since 19th December, 2002 but the workers were prevented by the management from entering the premises and performing their duties. However, undisputedly, there was no material placed on record in support of such contention, inspite of the fact that the management had immediately lodged the complaint about the illegal strike commenced by the workers since 19th December, 2002. Being so, the contention of the petitioners that the said finding is perverse is totally devoid of substance. Once the materials on record clearly disclosed that the employees of the management had gone on strike from 19th December, 2002 without complying with the statutory requirements before commencing the strike, there was a clear case made out in terms of Section 24(1)(a) of the MRTU and PULP Act, 1971, and therefore, no fault can be found with the concurrent findings of fact arrived at in that regard by the Courts below, and hence, there is no case for interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. The petition is, therefore, rejected with no order as to costs.

. Authenticated copy be given.